

Marc M. Gorelnik (Calif. Bar No. 166833)

Email: mmgorelnik@townsend.com

TOWNSEND and TOWNSEND and CREW LLP

Two Embarcadero Center, 8th Floor

San Francisco, CA 94111-3834

Telephone: 415-576-0200

Facsimile: 415-576-0300

Alfred C. Frawley, Esq. (*pro hac vice*) (Maine Bar No. 2547)

Email: afrawley@preti.com

William D. Hagedorn, Esq. (*pro hac vice*) (Calif. Bar No. 199322)

Email: whagedorn@preti.com

PRETI, FLAHERTY, BELIVEAU & PACHIOS, LLP

One City Center, P.O. Box 9546

Portland, Maine 04112-9546

Telephone: (207) 791-3000

Facsimile: (207) 791-3111

Attorneys for Defendant/Counterclaim Plaintiff

DONG YOUNG DIAMOND INDUSTRIAL CO., LTD,

AND DONGSOO LEE.

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

CONTINENTAL D.I.A. DIAMOND
PRODUCTS, INC., a California corporation,

Plaintiff/Counterclaim Defendant,

v.

DONG YOUNG DIAMOND INDUSTRIAL
CO., LTD, a South Korean company, DONGSOO
LEE, an individual, and DOES 1-10, inclusive,

Defendant/Counterclaim Plaintiff.

Case No. 08-cv-2136-SI

**REQUEST TO ENLARGE TIME
FOR FILING OPPOSITION TO
MOTION TO STRIKE
(Civil L.R. 6-3)**

Date: August 29, 2008

Time: 9:00 a.m.

Location: Courtroom 10, 19th Floor

1 Defendants Dong Young Diamond Industrial Co., Ltd, and Dongsoo Lee (collectively
2 "Dong Young") move pursuant to Civil L.R. 6-3 to enlarge the time for filing a Memorandum of
3 Points and Authorities in Opposition to Plaintiff's Motion to Strike. The interests of justice
4 require that Plaintiff's motion be decided on the merits rather than by default. Dong Young seeks
5 only a one-week enlargement of time, until today, to file its opposition to the motion to dismiss.¹
6 Dong Young further requests that Plaintiff be given until August 22, 2008 to file a reply.

7 Plaintiff filed separate motions to dismiss and strike on July 23, 2008, both noticed for
8 August 29, 2008. The motion to strike addresses affirmative defenses that are also the subject of
9 the motion to dismiss. Dong Young timely filed its opposition to the motion dismiss, but did not
10 timely file an opposition to the motion to strike. The reason is that the undersigned, local
11 counsel for Dong Young, inadvertently failed to forward the motion to trial counsel for response.
12 Dong Young should not be penalized for the reasons set forth below.

13 Fundamentally, Plaintiff is not prejudiced by a decision on the merits of its motion to
14 strike. Motions to strike are highly disfavored and justice is not served by a technical
15 disposition. Moreover, the overlap between Plaintiff's two motions is substantial. Dong Young
16 timely opposed the more extensive motion to dismiss. The additional arguments raised in the
17 motion to strike, to which Dong Young responds today, are incremental. Indeed, Plaintiff's
18 motions could have been combined into one.

19 Dong Young asks that its Opposition to Plaintiff's Motion to Strike, filed today, be
20 accepted and fully considered by the Court. Plaintiff should be given until Friday, August 22,
21 2008 to file a reply. Dong Young recognizes that this gives the Court only one week until the
22 hearing. However, given the overlap between the fully and timely briefed motion to dismiss and
23 the instant motion to strike, Dong Young prays for the Court's understanding.

24
25
26
27
28

¹ Dong Young's opposition papers are filed contemporaneously with this Motion to Enlarge Time.

1 The accompanying Declaration of Marc M. Gorelnik further supports this motion to
2 enlarge time.

3
4 DATED: August 15, 2008

By: /s/ Marc M. Gorelnik

5 Marc M. Gorelnik (Calif. Bar No. 166833)
6 TOWNSEND and TOWNSEND and CREW LLP

7 Alfred C. Frawley, Esq., (*pro hac vice*) (Maine Bar No.
8 2547)
9 William D. Hagedorn, Esq., (*pro hac vice*) (Calif. Bar No.
10 199322)
11 PRETI, FLAHERTY, BELIVEAU & PACHIOS, LLP

Attorneys for Defendant/Counterclaim Plaintiff
DONG YOUNG DIAMOND INDUSTRIAL CO., LTD,
AND DONGSOO LEE

12 61467433 v1
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28